

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

AB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/303,632 05/03/99 LEBEAU

C D-7102

MM71/0522

ARTHUR G YEAGER PA
112 WEST ADAMS STREET
SUITE 1305
JACKSONVILLE FL 32202

EXAMINER

GROHUSKY, L

ART UNIT	PAPER NUMBER
----------	--------------

2854

DATE MAILED:
05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application N.	Applicant(s)
	09/303,632	LEBEAU ET AL.
Examiner	Art Unit	
Leslie J. Grohusky	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 April 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 21-38, 41 and 42 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 21-27 and 32-38 is/are rejected.

7) Claim(s) 28-31, 41 and 42 is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 1 is/are objected to by the Examiner.

11) The proposed drawing correction filed on 25 September 2000 is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). ____ .
16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)
17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . 20) Other: ____ .

DETAILED ACTION

Continued Prosecution Application

1. The request filed on April 5, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/303,632 is acceptable and a CPA has been established. An action on the CPA follows.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on September 25, 2000 have been approved by the Examiner.

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Objections

4. Claims 21-38 and 41-42 are objected to because of the following informalities: In claim 21, the language "disposable transparent covers individually" in line 1 is confusing and it is suggested that this language be changed to --individual disposable transparent covers-- to use less awkward

claim language. It is suggested that a similar change be made to claim 32, line 1 such that it reads --An individual disposable transparent cover having.....

Furthermore, it is suggested that the term “a keyboard” throughout the claims (with the exception of the first recitation of the term in each of claims 21, 32, and 41) be deleted and replaced with --the keyboard-- since the term “a keyboard” makes it confusing as to whether applicant is attempting to recite another keyboard other than the one previously recited.

In claim 21, it is suggested that the term “a” (second occurrence) in line 3 be deleted and replaced with --at least one-- since claims 28-31 recite two sheets. Furthermore, it is suggested that the term “said sheet” in each of the dependent claims be deleted and replaced with --said at least one sheet-- to use consistent terminology throughout the claims. Also, in claim 28, it is suggested that the phrase “each said cover is formed from” be deleted and replaced with --said at least one sheet comprises-- or similar language.

Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102 and 35 USC § 103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 32 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nopper et al. (US 5,021,638). Nopper et al. teach an individual transparent cover **28** made of a transparent sheet of pliable plastic film having a predetermined length and width for protecting a keyboard **36** as recited. See Figures 1-2 and columns 3-4 in particular. Although Nopper et al. does not necessarily state that the cover is “disposable” as recited, Nopper et al. does teach that the cover is made of a low-cost material (column 2, lines 13-36) and this implies or at least renders obvious the idea that the cover is disposable. Furthermore note that everything can be broadly considered “disposable” to some extent.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nopper et al. (US 5,021,638). Nopper et al. teach an individual “disposable” transparent keyboard cover as recited (see above discussion of claim 32) with the exception of having a plurality of the covers provided in a package.

However, the broad provision of a providing a plurality of a known object is a well-known expedient. Furthermore, the provision of a plurality of individual objects in a package or container is a well-known mechanical expedient, such as, for example, packages of trash bags, packages of sheets of aluminum foil, packages of disposable rubber gloves, etc. Therefore, it would have been obvious to one of ordinary skill in the art to provide a package of a plurality of the individual keyboard covers as taught by Nopper et al. in order to provide a convenient supply of fresh disposable items to a user.

9. Claims 22-23 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nopper et al. as applied to claims 21 and 32 above, and further in view of Morse (US 4,438,300). Nopper et al. teach a disposable transparent keyboard cover (or package of covers) as recited with the exception of the cover having strips of adhesive for attachment to the keyboard surface. Morse teach a transparent protective cover **10** for a keypad including adhesive strips **21** along each side to facilitate attachment of the cover to the push-button array, as shown in Figures 4-5 and taught in column 3, lines 32-38. In view of this teaching, it would have been obvious to use adhesive strips as taught by Morse on the keyboard cover of Nopper et al. in order to provide better securement of the cover to the keyboard.

10. Claims 24-27 and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nopper et al. as applied to claims 21 and 32 above, and further in view of Weill et al. (US 5,931,297). Nopper et al. teach structure as recited with the exception of the sheet protecting both the entire upper and bottom surfaces of the keyboard. Although Nopper et al. do teach a flexible keyboard cover designed as a single sheet including an upper portion **24** and a lower portion **50, 40** that can wrap around the ends of the keyboard to completely enclose it, as shown in Figure 3a and described in column 4, lines 36-56, it appears that the lower portion **50, 40** does not necessarily contact the entire bottom surface as now recited. However, Weill et al. teach a flexible cover **10** for a keyboard including an upper member **17** being adapted to overlie the entire upper surface of the keyboard and a lower member **29** adapted to overlie the entire bottom surface of the keyboard. See Figure 1 and column 4 of Weill et al. In view of this teaching, it would have been obvious to one of ordinary skill in the art to make the sheet of Nopper et al. of a configuration such that an upper member and lower member of the sheet can completely contact and protect the entire upper and bottom surfaces of the keyboard.

With respect to claims 26 and 37, note that the cover of Weill et al. is formed as an envelope including an opening along an elongated top edge portion **18**, as shown in Figure 1.

With respect to claims 27 and 38, note that Weill et al. teach a cover formed as an envelope including an opening to allow the keyboard to be placed inside the cover and furthermore, there is no unobviousness in providing an opening along any edge portion of the cover for ease of entry (such as in a sleeping bag). It appears that the selection of which edge is open to allow insertion of the keyboard involves nothing more than an obvious matter of design choice and can depend upon such factors as whether a user is right-handed or left-handed.

Allowable Subject Matter

11. Claims 28-31 are objected to for the reasons set forth above as well as for being dependent upon a rejected base claim, but would be allowable if

rewritten to overcome the above objections to the satisfaction of the Examiner and in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 41-42 are objected to for the reasons set forth above, but would be allowable if rewritten to overcome the objections to the satisfaction of the Examiner.

13. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or suggest a keyboard

cover (or package of keyboard covers) as recited in combination with, and particularly including, the cover being formed from two identical flat sheets of plastic film fastened together as recited.

Response to Arguments

14. Applicant's arguments with respect to claims 21-27 and 32-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Grohusky** whose telephone number is **(703) 308-0786**. The examiner can normally be reached on M-Th 7:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John S. Hilten can be reached on (703) 308-0719. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Leslie J. Grohusky

Leslie J. Grohusky

Patent Examiner

Art Unit 2854

ds

ljjg

May 20, 2001